



Attorney Docket No. 14991.01

Confirmation No. 3347

Customer No. 37833

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE PATENT APPLICATION OF:

APPLICANT : **ROBERT W. JONES**

APPL. NO. : **10/751,510**

ART UNIT : **1723**

FILED : **January 6, 2004**

EXAMINER : **J. DRODGE**

FOR : **GUTTER FOAM FILTER**

MAIL STOP AMENDMENT
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.131

I, ROBERT W. GIBSON, declare that:

1. I am a registered patent attorney employed by Litman Law Offices, Ltd. I am participating in the representation of the inventor, Robert W. Jones, of the subject matter described and claimed in the above-identified patent application before the U.S. Patent and Trademark Office.

2. On or about May 1, 2006 I prepared and filed in the United States Patent and Trademark Office, an amendment to the above-indicated patent application on behalf of

Robert W. Jones, inventor of the subject matter described and claimed in the above-identified patent application. This amendment was filed on May 1, 2006 in response to an Office Action mailed February 2, 2006. Included as an attachment to the May 1, 2006 amendment, was a Declaration under 37 CFR § 1.131 by the inventor Robert W. Jones. Mr. Jones' Declaration was filed in an effort to antedate a patent to Groth et al., applied by the Examiner in the February 2, 2006 Office Action. Mr. Jones' § 1.131 Declaration included, *inter alia*, Exhibit B, which was a copy of a yard sign designed by Judith Barrett Graphics specifically for Mr. Jones' business. On the Exhibit B yard sign copy was a picture showing a section of gutter with the end removed to reveal the filter insert of Mr. Jones' claimed invention, including the truncated right triangular cross-section of the filter insert and the substantially triangular-shaped void formed between the angled side of the filter insert and the front and bottom walls of the gutter.

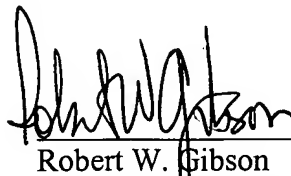
3. On May 18, 2006 Examiner Joseph Drodge issued a Final Rejection of all of the claims in the above-identified patent application, indicating that the evidence submitted in the § 1.131 Declaration by Mr. Jones was insufficient to establish a conception of the invention prior to the effective filing date of the Groth et al. patent. Examiner Drodge stated as the reason for finding the Declaration to be insufficient: "The gutter foam filter insert shown as Exhibit B of the Declaration fails to show the critical claimed feature of a filter insert having a flat, angled side that is configured to leave a triangular-shaped insert [sic: void] at the bottom and front wall of a gutter, instead showing a foam filter substantially filling a gutter that is characteristic of older prior art (Final Rejection, p. 2, lines 9-12)."

4. On May 31, 2006 I participated in a personal interview with Examiner Drodge. At the interview, I presented Examiner Drodge with a Litman Law Offices, Ltd. file copy of the Declaration under 37 CFR § 1.131 by the inventor Robert W. Jones, including the "Exhibit B" yard sign submitted as part of the above-noted Robert W. Jones Declaration. A Litman Law file copy of the Declaration under 37 CFR § 1.131 by the inventor Robert W. Jones is attached hereto as Exhibit D.

5. At the above-noted interview conducted May 31, 2006, Examiner Drodge agreed that the Litman Law file copy of the Declaration under 37 CFR § 1.131 by the inventor Robert W. Jones did show "the critical triangular prism configuration of the gutter filter, and that a new Declaration will be submitted with a copy of such Declaration being hand-carried to the Examiners Office in the interest of swearing back of the Groth reference to show features that may be unviewable or hidden by the Scanning process for the official copy, especially the triangular configuration of the gutter filter (Interview Summary, PTOL-413, May 31, 2006, p. 3, lines 3-7)." A copy of the Examiner's Interview Summary, from the May 31, 2006 interview, is attached hereto as Exhibit E.

Date: _____

6/27/06



Robert W. Gibson
Registration No. 57,145



Attorney Docket No. 14991.01

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FILE COPY

DECLARATION UNDER 37 C.F.R. § 1.131

I, Robert W. Jones, declare that:

1. I am the sole inventor of the subject matter described and claimed in the above-identified patent application.
2. Prior to February 18, 2003, I completed in this country, the invention described and claimed in the subject application as evidenced by, but not limited to, the following:

a. Prior to February 18, 2003, having earlier conceived the idea of a GUTTER FOAM FILTER, I placed an order with Judith Barrett Graphics of Alexandria, VA, on or about December 10, 2002, for the preparation of Gutter Stuff yard signs at a total cost of \$131.31, as evidenced by the attached copy of the Judith Barrett Graphics "Invoice". See Attached Exhibit A.

b. The Gutter Stuff yard signs designed by Judith Barrett Graphics included, *inter alia*, a photograph showing a perspective view of a model of my invention. The model shown on the yard signs included a section of gutter with the end of the gutter section removed for viewing, and the gutter filter of my invention in place within the gutter section, as evidenced by the attached copy of the Gutter Stuff yard sign designed by Judith Barrett Graphics. See attached Exhibit B.

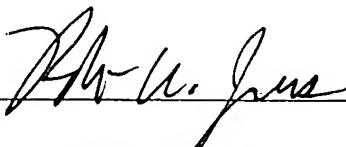
c. On or about January 15, 2003 I paid for the preparation of the above-noted Gutter Stuff yard signs by personal check, as evidenced by the attached copy of a personal check for the amount of one-hundred, thirty-one dollars and thirty-one cents, written on the Burke & Herbert Bank & Trust Co. to Judy Barrett and dated January 15, 2003. See attached Exhibit C.

d. On or about March 19, 2003, I prepared and presented a disclosure of my invention to Litman Law Offices, Ltd., for the purposes of having a preliminary patentability search conducted. The disclosure of my invention included a written description of my invention, and a model of my invention. The model disclosed to

Litman Law Offices, Ltd. is the model of my invention that was used by Judith Barrett Graphics in the preparation of the above-noted Gutter Stuff yard signs. See the copy of the Litman Law Offices, Ltd.'s "Confidential Record of Invention & Patent Search Request From" and the three photographs, Fig. 1, Fig. 2 and Fig. 3 submitted as Exhibits A and B, respectively, in the Declaration Under 37 C.F.R. § 1.131 by Richard C. Litman, filed December 19, 2005 in the present application.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that willful false statements may jeopardize the validity of the application or any patents issuing thereon.

Date: 4-26-06


Robert W. Jones

Judith Barrett

JUDITH BARRETT GRAPHICS
4006 Chestnut Place • Alexandria, VA 22311
703-578-0397 • fax: 703-578-1863

Invoice

DATE	INVOICE #
12/10/02	1835

BILL TO:

Mr. Robert Jones
Construction Resource Group
1214 Kelley Street
Vienna, VA 22180

P.O. NUMBER	TERMS	PROJECT
1835	Due on receipt	1835

QUANTITY	DESCRIPTION	RATE	AMOUNT
	New Gutterstuff Yard Signs Prepared for Robert Jones, Vienna, VA		
0.5	Consultation	75.00	37.50T
0.5	Production	50.00	25.00T
1	Project Coordination	50.00	50.00T
	Messengers	13.75	13.75
	Sales Tax	4.50%	5.06
		TOTAL	\$131.31

THANK YOU. WE APPRECIATE YOUR BUSINESS

Please make checks payable to: Judith Barrett

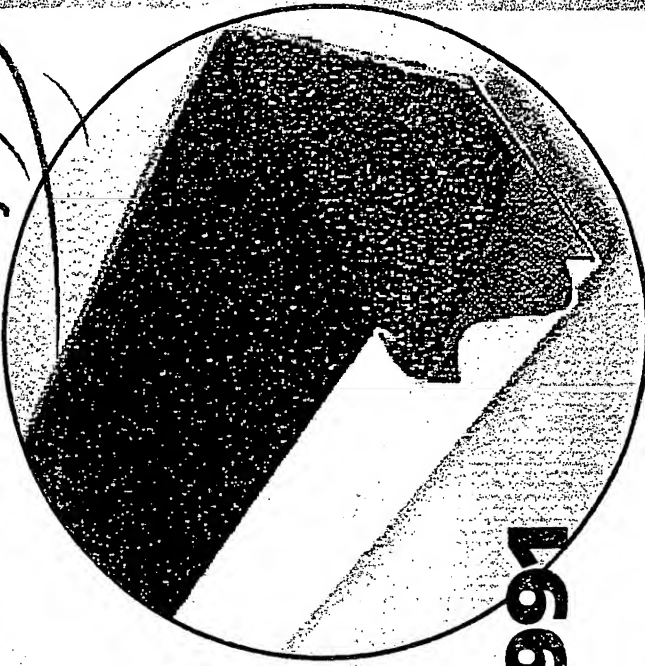
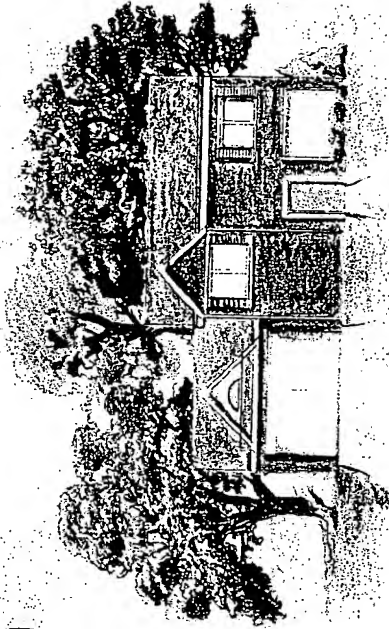
Ask About...

Gutter Stuff™



Foam Filter Insert

Water flows through, leaves blow away



Free Estimates!

1-800-707-4991

see www.gutterstuff.com

ROBERT W. JONES

6-98

2671

PH. 703-242-9637
1214 KELLEY ST.
VIENNA, VA 22180

Date 1-15-03

68-106/560
06


Pay to the
Order of

Judy Baker

\$ 131.31

one hundred thirty one and 31/100

Dollars

 Security features
are explained
on back.

Burke & Herbert Bank & Trust Co.
Alexandria, Va.

For

[Signature]

⑆056001066⑆ ⑆06⑆08005⑆7⑆ 267⑆ ⑆000001313⑆

Interview Summary	Application No.	Applicant(s)	
	10/751,510	JONES, ROBERT W.	
	Examiner	Art Unit	
	Joseph W. Drodge	1723	

All participants (applicant, applicant's representative, PTO personnel):

(1) Joseph W. Drodge. (3) _____

(2) Robert Gibson. (4) _____

Date of Interview: 31 May 2006.

Type: a) ☐ Telephonic b) ☐ Video Conference
c) ☒ Personal [copy given to: 1) ☒ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☒ Yes e) ☐ No.
If Yes, brief description: _____

Claim(s) discussed: generally all.

Identification of prior art discussed: Applied prior art of record.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's representative presented a file copy of the most recent Declaration and emphasised the file copy showing the critical triangular prism configuration of the gutter filter. It was agreed that the file copy showed the triangular configuration and that a new Declaration will be submitted with a copy of such Declaration being hand-carried to the Examiners Office in the interest of swearing back of the applied Groth reference to show features that may be unviewable or hidden by the Scanning process for the official copy, especially the triangular configuration of the gutter filter.

Joseph Drodge
JOSEPH DRODGE
PRIMARY EXAMINER